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1 **OFFICIAL FILING BY FACSIMILE**  
2 **TRANSMISSION ON MARCH 20, 2003 TO THE**  
3 **OFFICE OF PETITIONS BY FACSIMILE #703 308**  
4 **6916, OFFICE OF PETITIONS TELEPHONE**  
5 **NUMBER 703 305 9282 (EXAMINER FRED PRINCE,**  
6 **ART UNIT 1724, TELEPHONE 703-306 9169.).**

Our Ref. No. P-1534-011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:  
CULLINAN

Date: March 20, 2003

Serial No. 09/041,685

Group Art Unit: 1724

Filed: March 13, 1998

Examiner: Fred Prince

For: A VERTICAL VORTEX OR  
LAMINAR FLOW INTERACTIVE BIO  
MEDIA WATER TREATMENT DEVICE  
or in the alternative A BIO-REACTIVE  
GREASE AND OIL SEPARATOR**By facsimile transmission only 703 308**

FAX RECEIVED

Attention Office of Petitions  
Assistant Commissioner of Patents  
Box DAC  
Washington, D.C. 20231

MAR 20 2003

PETITIONS OFFICE

Dear Commissioner:

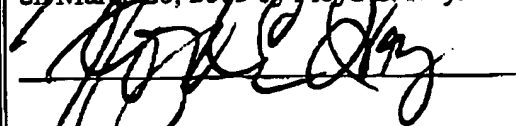
In response to the communication from the Examiner dated August 16, 2000,  
2001, please consider the following:

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED****UNINTENTIONALLY UNDER 35 CFR 1.137(b)**

The inventors and applicants now Petition for Revival of the Above Identified  
Application and provides the following to the Commissioner:

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on March 20, 2003 by Floyd E. Ivey.

Application No. 09/041,685



1 1) The Petitioner submits a small entity Petition fee of \$650.00 pursuant to 37  
2 CFR 1.17(l).

3 2) The Petitioner submits a response to the Examiner's Action of August 16,  
4 2000.

5 3) the Petitioner asserts that there is no terminal disclaimer required as this  
6 application was filed on or after June 8, 1995.

7 4) the Petitioner submits Petitioner's statement that the entire delay was  
8 unintentional. The entire delay in filing the required reply from the due date for the  
9 required reply until the filing of a grantable petition under 37CFR 1.137(b) was  
10 unintentional.

11  
12 March \_\_, 2003

Max V. Weiss

13  
14 March \_\_, 2003

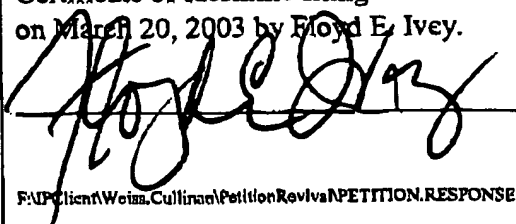
Terry J. Cullinan

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16 **RESPONSE TO EXAMINER'S ACTION OF AUGUST 16, 2000**

17 The following substitute specification for application 09/041,685, entitled A BIO-  
18 REACTIVE GREASE AND OIL SEPARATOR, is submitted. The substitute  
19 specification, the claim amendments and the remarks are responsive to the Final Office  
20 Action dated August 16, 2000 wherein the Examiner states that the substitute  
21 specification filed April 11, 2000 has not been entered because it does not conform to  
22 MPEP 608.01(q) which requires the submission of a marked-up copy which shows  
23 additions to and/or deletions from the original specification and that said proffered  
24 substitute specification does not conform to 35 CFR 1.125 which requires that applicants  
25 certify that there is no new matter, and moreover, the specification is not entered because

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1 it is replete with new matter.

2 Your applicant submits the following as a substitute specification flowing from  
3 the reordering of that which was submitted as the original application . This response and  
4 substitute specification is drawn from the specification, drawings and claims as originally  
5 submitted and claims 10-29 as added but not received in the August 16, 2000 Action.

6 The amendments and substitution pages are submitted in the new format  
7 "Pre-OG Notice". Hence, for each amendment to each distinct section of the  
8 application, a separate sheet will be employed per the "Pre-OG Notice". Separate  
9 sheets will be commenced for a.) Introductory Comments; b.) Amendments to the  
10 Specification; c.) Amendments to the Claims; and d.) Remarks. It is observed that  
11 for claims, all claims will be displayed where any amendment is made to any claim.  
12 Amendments to claims shall be shown by strike through for deletions and  
13 underlining for additions. Amendments to the specification will be by strikeout and  
14 underlining. No separate "clean" version is provided for either amendments to  
15 claims or specification. In this Petition to the Commissioner and Response to the  
16 Examiner's action, the application is set forth as a substitute application. The  
17 source supporting each amendment to either claims or specification is from that  
18 originally submitted with the original application re: specification and claims and as  
19 derived from an examination of the drawings.

#### 20 CERTIFICATION OF NO NEW MATTER

21 Pursuant to 37 CFR 1.125, it is certified that no new matter has been added  
22 by this submitted substitute specification. The substitute specification is submitted  
23 in a marked up format. The additional text is drawn from a review of the drawings  
24 as originally submitted comprising Figures 1 through 11. Deriving additional  
25 description of the invention from the drawings is recognized as proper and it is

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#16

1 contended here that no new matter has been added.

2 The test of the right to make counts is to be found in the total disclosure. Thus, the  
3 omission of a written description in the specification of an application will not  
4 necessarily prevent the reading of a count on a structure shown in the drawing and  
5 described in general terms in the specification. Here, the function of the disclosed  
6 structure is inherent in the structure shown in the drawings forming a part of the  
7 application. *Woofster v. Carlson*, 367 F.2d 436, 441, Cust. & Pat.App. 1966;  
8 *Carlson v. Nagata*, 480 F.2d 1372, 1375-76 ; Cust. & Pat.App., 1973

9 The inventors are Max V. Weiss, 407 Skidoo Bay, Polson, Mt. 59860 and Terry J.  
10 CULLINAN, P.O. Box 2725, Missoula, Mt. 59806 are as disclosed in the original  
11 application.

12 A new Declaration is filed in accordance with the requirements of the Examiner.

13 **This PETITION FOR REVIVAL ACCOMPANIED BY A RESPONSE TO**  
14 **THE LAST OFFICE ACTION OF AUGUST 16, 3000 is being filed by facsimile**  
15 **transmission to FACSIMILE #703-305 7718.**

16 **FEES OWING**

17 The applicant respectfully observes that this Petition requires the payment of \$650  
18 for a small entity and that the PTO 2038 form for payment by Credit Card is included  
19 with this transmission.  
20

21 **AMENDMENTS**

22 **In the Specification**

23 **On the following pages the Examiner will find a Substitute Specification with**  
24

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26 on March 20, 2003 by Floyd E. Ivey.

27 Application No. 09/041,685

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